

Rev. 03/11) Prisoner Civil Rights Complaint

**Official Use Only**

Case Number	Judge	Magistrate Judge
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Case 2:13-cv-12980  
 Judge: Edmunds, Nancy G.  
 MJ: Whalen, R. Steven  
 Filed: 07-10-2013 At 05:00 PM  
 PRIS ARMANDO E. BERMUDEZ SR. V SAGI  
 NAW POLICE DEPT, ET AL (LG)

**PRISONER CIVIL RIGHTS COMPLAINT**

This form is for use by state prisoners filing under 42 U.S.C. § 1983 and federal prisoners filing pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

**Plaintiff's Information**

Name	Armando E. Bermudez sr.			Prisoner No.	204721
Place of Confinement	E.C.F OAKS Correctional Facility				
Street	City	State	Zip Code		
1500 Caberfae Hwy.	Manistee	Mi.	49660		
Are there additional plaintiffs? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
If yes, any additional plaintiffs to this action should be listed on a separate 8 1/2" x 11" sheet of paper and securely attached to the back of this complaint. <u>You must provide names, prisoner numbers and addresses for all plaintiffs.</u>					

**Defendant's Information**

Name	Saginaw Police Dept., Mich. St. Police			Position
Anthony Teneyaque, Trooper Oster Dept				
Street/P.O. Box	City	State	Zip Code	
612 Federal	Saginaw	Mi.	48601	
Are you suing this defendant in his/her: <input type="checkbox"/> Personal Capacity <input type="checkbox"/> Official Capacity <input checked="" type="checkbox"/> Both Capacities				
Are you suing more than one defendant? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
If yes, any additional defendants to this action should be listed on a separate 8 1/2" x 11" sheet of paper and securely attached to the back of this complaint. <u>You must provide their names, positions, current addresses and the capacity (personal, official or both) in which you are suing them.</u>				

**I. PREVIOUS LAWSUITS**

Have you filed any other lawsuits in state or federal court relating to your imprisonment?

☐ Yes      ☒ No

If "Yes," complete the following section. If "No," proceed to Part II.

Please list all prior civil actions or appeals that you have filed in federal court while you have been incarcerated.

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

***Any additional civil actions should be listed on a separate sheet of 8½" x11" paper and securely attached to the back of this complaint.***

## II. STATEMENT OF FACTS

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include the names of other people, dates and places involved in the incident. Do not give any legal arguments or cite any cases or statutes.

On 7-8-10 at 2:30 AM I was stoped for a headlight malfunction, but I did not stop until I got home, by then I had State Troopers and Sasinaw Police on my tail. When I start I got out of the car laid on my stomach, arms stretch out to my sides and Palms down. I was handcuff By Sasinaw Police officer Tenexuque when he and other State Troopers comenced to kicking me on my head, ribs, Chest and legs. As Tenexuque grabed me by my hair and rubed my forehead and face into the concrete as I cired for them to stop my wife and kids were also telling for them to stop, when they found out that they were my family Tropper Oster grabed me by my anchels and draged me 40 to 50 Feet to his Squad car on my stomach where I was out of sight from my family

Continued next  
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## III. STATEMENT OF CLAIMS

State what rights under the Constitution, laws, or treaties of the United States have been violated, and be specific. Set forth each claim in a separate paragraph. If you intend to allege several related claims, number and set forth each claim on a separate 8½" x 11" sheet of paper and securely attach the papers to the back of this complaint.

Failure to intervene 4th. Amendment

- ① — Bruner 684 F.2d 442, 426; (6th Cir. 1982) 459 U.S. 1117, 103 S.Ct. 816, 74 L.ed.2d 1014 (1993)
- ② — Darham v. Mu'Man 97 F.3d 862, 866-68 (6th Cir. 1996)
- ③ — Anderson v. Brannen 17 F.3d 552, 557 (2d. Cir. 1994)
- ④ — Byrd v. Brishke 466 F.2d 6 (7th Cir. 1972)
- ⑤ — McHenry v. Chadwick 896 F.2d 184 (6th Cir. 1990)
- ⑥ — Ohio Civil Serv. 858 F.2d 977 (6th Cir. 1988) at 1177
- ⑦ — O'Neill v. Krzeminski 839 F.2d 9, 11 (2d Cir. 1988)
- ⑧ — Byrd v. Clark 783 F.2d 1002, 1007 (11th Cir. 1986)
- ⑨ — Webb v. Hylkel 713 F.2d 405, 408 (8th Cir. 1983)
- ⑩ — Davidson v. Cannon 474 U.S. 344-106 S.Ct. 668, 670, 88 L.ed. 677, 683 (1986)
- ⑪ — Pledowell v. Rogers 863 F.2d 1302, 1307 (6th Cir. 1988)
- ⑫ — Bochin v. California 342 U.S. 165, 72 S.Ct. 205, 96 L.ed. 183 (1952)
- ⑬ — Wilson v. Beebe 770 F.2d at 586
- ⑭ — Turner v. Scoot 119 F.3d 425, 429 (6th Cir. 1997)

Part (A)

## IV. RELIEF

State briefly and exactly what you want the Court to do for you.

I would like for Tenexuque and all who where involved to receive their just Punnishment! For him and all who are responceable to give up their Possistions

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as law enforcement and protectors of our city. I also am asking for pain and suffering on behalf of me and my family to be paid resitution. All officers involed are named in my cass which I have not the documents are in People vs. Armando E. Bermudez File No. 10-034559-FH-3 in Saginaw Mi. 48602 Assistant Prosecuting Attorney Randy L. Price 111 S. Michigan Ave. Saginaw Mi. 48602-2019 489-290-5330 and would like to include them as well latter on as we proceed. Tropper Oster from the bridgeport state Police Post 6280 Dixie Highway Bridgeport Mi. 48601 also Mental Anguish

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed (signed) on \_\_\_\_\_ (date).

Armando E. Bermudez Sr.  
Signature of Plaintiff

## Defendants

8. Mi. Department of State Police; 9. Saginaw Police Dept.  
6280 Dixie Highway 612 Federal  
Bridgeport Mi. 48601 Saginaw Mi. 48601

- |                    |                              |
|--------------------|------------------------------|
| 1. Trooper Oster   | 5. Officer Addison Burton    |
| 2. Trooper Bledsoe | 6. Officer Blake Hiben       |
| 3. Trooper Korzek  | 7. Officer Anthony Tenexuque |
| 4. Trooper Jerome  |                              |

## Witnesses

- |                       |                     |
|-----------------------|---------------------|
| 1. Christina Bermudez | 2. Nadia Roddriguez |
| 3. Juan Aunguiano     | 4. Olivia Torrez    |
| 5. Vicente Bermudez   |                     |

while I was on the ground Trooper kept his boot on my head, Pressing down hard while he talkt to other Troopers. And during this time they kept tunting me and calling me names. I was then taken to St. Marreys Hospettel Where Trooper Oster edmitted me as being in a car accident to cover their misconduct.

## 4th. Amend. Failure of Sinor Officer to Intervene

- ① HAYS V. Jefferson County 668 F.2d 869 (6th Cir. 1982)
- ② Durham V. Mu'Man 97 F.3d 862, 866-68 (6th Cir. 1996)
- ③ Anderson V. Brannen 17 F.3d 552, 557 (2d. Cir. 1994)
- ④ Leach V. Shelby County Sheriff 891 F.2d 1241 (6th Cir. 1989)

## UNLAWFULNESS OF CONDUCT 4th Amend.

- ① Wegener V. City of Covington 933 F.2d 390, 392 (6th Cir. 1991)
- ② City of Bremerton 268 F.3d at 651-52
- ③ Chew V. Gates 27 F.3d 1432, 1440 (9th Cir. 1994)
- ④ Darnell V. Laver No. 97-5297, 1998 WL 416000 at 3 (6th Cir. 1998)
- ⑤ Martin V. Heideman 106 F.3d 1308, 1311-12 (6th Cir. 1997)
- ⑥ Kain V. Nesbitt 156 F.3d 669, 673 (6th Cir. 1998)
- ⑦ Gladdis V. Redford Township 364 F.3d 763, 772 (6th Cir. 2004)
- ⑧ Graham V. Connor 490 U.S. 386, 109 S.Ct. 1865, 104 L.ed.2d 443 (1989)
- ⑨ Adams V. Metiva 31 F.3d 375, 387 (6th Cir. 1994)
- ⑩ Phelps V. Coy 286 F.3d 295, 2002 Fed. APP. 0121
- ⑪ Willson V. Laten 526 U.S. 603, 615, 119 S.Ct 1692, 143 L.ed.2d 818 (1999)

## Assult And Battery 4th Amed.

- ① Tinkler V. Richter 295 Mich. 396, 401; 295 N.W.2d 11940
- ② Sudul V. Hamtramick 221 Mich. APP. 455, 458, 477; 562 NW.2d 478 (1997)
- ③ Rutherford V. Berkely 780 F.2d 1444, 1448 (9th Cir. 1986)
- ④ Smith V. Stolberg 231 Mich. APP. 256, 286 NW.2d 103 (1998)
- ⑤ Espinoza V. Thomas 189 Mich. APP. 110, 119, 472 NW.2d 16 (1991)
- ⑥ Gaddis V. Redford Tp. No. 242831, 2004 WL 243363 4 (Mich.) Ct. APP. 2004)
- ⑦ White V. City of Vassar 157 Mich. APP. 282, 403 NW.2d 124 (1987)
- ⑧ Phelps V. Coy 286 F.3d 295, 2002 Fed. APP. 0121
- ⑨ Graham V. Connor 490 U.S. 386, 109 S.Ct. 1865, 104 L.ed.2d 443 (1989)

## Excessive Use of Force 4th. Amend.

- ① Tennessee V. Garner Supra 471 U.S. at 7-22, 105 S.Ct. at 1699-1707
- ② Doe V. Sullivan County Tennessee 956 F.2d 545, 555 6th Cir.
- ③ Wilson V. Beebe 770 F.2d at 586
- ④ Graham V. Connor 490 U.S. 386, 109 S.Ct. 1865, 104 L.ed. 2d 443 (1989)
- ⑤ Phelps V. Coy 286 F.3d 295, 2002 Fed. APP. 0121
- ⑥ Rochin V. California 342 U.S. 165, 72 S.Ct. 205, 96 L.ed 183 (1952)

## Excessive Use of Force 4th. Amend.

- ⑦ Dickerson v. McCellan 101 F.3d 1151, 1161-1162 (6th Cir. 1996)
- ⑧ Adamams v. Metiva 31 F.3d 375, 386 (6th Cir. 1994)
- ⑨ McDowell v. Rogers 863 F.2d at 1307
- ⑩ Darnell v. Caver No. 97-5297, 1998 WL 416000 at 3 (6th Cir. 1998)
- ⑪ Saucier v. Katz 533 U.S. 194, 121 S.Ct. 2151, 2156, 150 L.ed.2d 272 (2001)
- ⑫ Dugan v. Brooks 818 F.2d 513 Supra
- ⑬ Lewis v. Downs 774 F.2d 771 Supra (6th Cir. 1985)
- ⑭ U.S.C.A. Const. Amend. 4; 42 U.S.C.A 1983 - Bultema v. Benzie County 146 Fed. App. 0715 N. Arrest 68 (2)
- ⑮ U.S.C.A. Const. Amend. 4 - Lanman v. Henson 448 F. Supp.2d 844 - Arrest 68 (2)
- ⑯ Feemster v. Dehntjer 661 F.2d 87, 89 (8th Cir. 1981)
- ⑰ Bruner v. Dunaway 684 F.2d 422 (6th Cir. 1982)
- ⑱ 483 U.S. at 640, 107 S.Ct. 3034
- ⑲ Wilson v. Laten 526 U.S. 603, 615, 119 S.Ct. 1692, 143 L.ed.2d 818 (1999)
- ⑳ Turner v. Scoot 191 F.3d 425, 429 (6th Cir. 1997)
- ㉑ Gladdis v. Redford Township 364 F.3d 763, 772 (6th Cir. 2004)
- ㉒ Cox v. Treadway 75 F.3d 230 (6th Cir. 1996)
- ㉓ Davidson v. Cannon 474 U.S. 344-106 S.Ct. 668, 670, 88 L.ed 2d 677 + 683 ↑ (1986)
- ㉔ Tinkler v. Richter 295 Mich. 396, 401; 295 NW 201 1940
- ㉕ Sudal v. Hamtramick 221 Mich. APP. 455, 458, 477; 526 NW.2d 478 (1997)
- ㉖ Toms v. Taft 338 F.3d 519, 524 (6th Cir. 2003)
- ㉗ Williams v. Mehra 186 F.3d 685, 691 (6th Cir. 1999)
- ㉘ Anderson 483 U.S. 640, 107 S.Ct. 3034
- ㉙ Barton v. Norred 106 F.3d 1289, 1293 (6th Cir. 1997)

## EXcessive use of Force 4th. Amend.

- ③① Smith v. Stolberg 231 Mich. APP. 256, 286 N.W.2d 103 (1998)
- ③① Espinoza v. Thomas 189 Mich. APP. 110, 119, 472 N.W.2d 16 (1991)
- ③② White v. City of Vassar 157 Mich. APP. 282, 403 N.W.2d 124 (1987)
- ③③ Ianman 448 F. Supp. 2d 844
- ③④ Terry 392 U.S. 1, 88 S.Ct 1868, 20 L.ed. 2d 889
- ③⑤ O'Brien v. City of Grand Rapids 23 F.3d 990, 995 (6th Cir. 1994)
- ③⑥ Darnell v. Caver No. 97-5297, 1998 WL 416000 at 3 (6th Cir. 1998)
- ③⑦ Mondak v. Oullette 118 F.3d 1099, 1104 (6th Cir. 1997)
- ③⑧ Wegener v. City of Covington 933 F.2d 390, 392 (6th Cir. 1991)
- ③⑨ Smith v. Ross 482 F.2d 33 (6th Cir. 1973)
- ④① Byrd v. Brishke 466 F.2d 6 (7th Cir. 1972)
- ④① McHenry v. Chadwick 896 F.2d 184 (6th Cir. 1990)
- ④② Thomas v. Whalen 51 F.3d 1285, 1289-90 (6th Cir. - U.S. - 116 S.Ct. 518, 133 L.ed. 2d 426 (1995))
- ④③ Walton v. City of Southfield 995 F.2d 1331, 1335-36 (6th Cir. 1993)
- ④④ Johnson v. Glick 481 F.2d 1028, 1033 (2d Cir.) 414 U.S. 1033, 94 S.Ct. 462 L.ed. 2d 324 (1973)
- ④⑤ Ting v. United States 927 F.2d 1504, 1510 (9th Cir. 1991)
- ④⑥ P.B. v. Koch 96 F.3d 1298, 1303-04 (9th Cir. 1996)
- ④⑦ Palmer v. Sanderson 9 F.3d 1433, 1436 (9th Cir. 1993)
- ④⑧ City of Bremerton 268 F.3d at 651-52 quoting Chew v. Gates 27 F.3d 1432, 1440 (9th Cir. 1994)

**CIVIL COVER SHEET FOR PRISONER CASES**Case No. 13-12980Judge: Nancy G. EdmundsMagistrate Judge: R. Steven Whalen**Name of 1<sup>st</sup> Listed Plaintiff/Petitioner:**

ARMANDO E. BERMUDEZ SR.

**Name of 1<sup>st</sup> Listed Defendant/Respondent:**

SAGINAW POLICE DEPT, ET AL

**Inmate Number:** 204721**Additional Information:****Plaintiff/Petitioner's Attorney and Address Information:****Correctional Facility:**

Earnest C. Brooks Correctional Facility

2500 S. Sheridan Drive  
Muskegon Heights, MI 49444  
MUSKEGON COUNTY**BASIS OF JURISDICTION**

- ☐ 2 U.S. Government Defendant  
☒ 3 Federal Question

**ORIGIN**

- ☒ 1 Original Proceeding  
☐ 5 Transferred from Another District Court  
☐ Other:

**NATURE OF SUIT**

- ☐ 530 Habeas Corpus  
☐ 540 Mandamus  
☒ 550 Civil Rights  
☐ 555 Prison Conditions

**FEE STATUS**

- ☒ IFP *In Forma Pauperis*  
☐ PD Paid

**PURSUANT TO LOCAL RULE 83.11****1. Is this a case that has been previously dismissed?**

- ☐ Yes ☒ No

➤ If yes, give the following information:

Court: \_\_\_\_\_

Case No: \_\_\_\_\_

Judge: \_\_\_\_\_

**2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)**

- ☐ Yes ☒ No

➤ If yes, give the following information:

Court: \_\_\_\_\_

Case No: \_\_\_\_\_

Judge: \_\_\_\_\_